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Joseph P. Ashbrook
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March 23, 2023

Lynnette Dinkler
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DINKLER LAW OFFICE, LLC
174 Lookout Drive
Dayton, OH 45419

John A. Podgurski
JP@johnpodgurski.com
Law Offices of John A. Podgurski
9155 Chillicothe Road
Kirtland, OH 44094

Sent Via Email

Re: Rule 11 Motion for Sanctions

Counsel:

We are in receipt of your letter dated March 20, 2023. My colleague Julie Byrne is addressing the Rule 11 issue for us. But I read the letter and wanted to directly address some of your allegations.

The ethics allegations in your motion in limine ("MIL") were unnecessary to the privilege assertions you argued, and you provided no legal citation to make them relevant. You also made these ethics allegations without conducting reasonable due diligence. And when Plaintiffs' counsel directly addressed your arguments and the substance of the Mathews' declaration in response, you changed your argument in reply—but ignored that comment 7 to rule 4.2 specifically says counsel may contact former constituents. Your course of conduct is all the more egregious given how we properly approached you regarding Justin Firks after he notified us that John Podgurski might be representing him.

In your recent letter, you also misrepresent a conversation between Lynnette and I regarding Mr. Podgurski. Plaintiffs' counsel never "threatened" to remove Mr. Podgurski as counsel. Instead, I asked if you (Lynnette) had considered the possibility

EXHIBIT A

that John could be conflicted out down the road. You responded that you had considered it but did not think that John would be conflicted out. I said that we would discuss the matter with you first if it ever becomes an issue. To date, I have not done so.

Additionally, prior to filing, we provided you with a copy of our Motion seeking to reduce the Rule 11 safe harbor and the potential prejudice the safe harbor may cause to our clients, yet you assert that we did not explain this. You also never contacted us after we provided you with the same. Finally, we are not litigating the *Croley* or board removal actions. You might be litigating all three cases but that does not mean we are.

In the end, Plaintiffs' counsel has acted honorably and with collegiality in this matter. But you are abusing the litigation process. You accused fellow officers of the Court of unethical conduct without conducting reasonable due diligence, without talking to counsel first, and without supporting your arguments with legal citations regarding the relevance of what you were arguing in the MIL. Nothing in your letter dissuades us from the fact that your conduct is a violation of Rule 11.

Sincerely,

Ashbrook Byrne Kresge LLC

s/ Joseph P. Ashbrook

Joseph P. Ashbrook

CC: Julie E. Byrne, Nicholas Barry, David Carey, Michael Meuti, David M. Hopkins, Freda Levenson, Malita Picasso, Rose Saxe, Aditi Fruitwala, Arijeet Sensharma

From: jpashbrook@ashbrookbk.com <jpashbrook@ashbrookbk.com>
Sent: Thursday, March 23, 2023 4:19:16 PM
To: Lynnette Dinkler <Lynnette@dinkler-law.com>; 'jp johnpodgurski.com' <jp@johnpodgurski.com>
Cc: 'David Carey' <dcarey@acluohio.org>; 'Freda Levenson' <flevenson@acluohio.org>; 'Malita Picasso' <MPicasso@aclu.org>; rsaxe@aclu.org <rsaxe@aclu.org>; afruitwala@aclu.org <afuitwala@aclu.org>; asensharma@aclu.org <asensharma@aclu.org>; mmeuti@beneschlaw.com <mmeuti@beneschlaw.com>; dhopkins@beneschlaw.com <dhopkins@beneschlaw.com>; 'Julie Byrne' <jebyrne@ashbrookbk.com>; 'Nicholas Barry' <nicholas.barry@aflegal.org>
Subject: RE: John / Jane Doe No 1, et al vs. Bethel Local School District BOE, et al

Counsel,

Please see attached.

Thanks,
Joey

From: Tina Sabo <tina@dinkler-law.com>
Sent: Monday, March 20, 2023 10:29 PM
To: 'jpashbrook@ashbrookbk.com' <jpashbrook@ashbrookbk.com>; 'jebyrne@ashbrookbk.com' <jebyrne@ashbrookbk.com>; 'nicholas.barry@aflegal.org' <nicholas.barry@aflegal.org>
Cc: David Carey <dcarey@acluohio.org>; 'Freda Levenson' <flevenson@acluohio.org>; Malita Picasso <MPicasso@aclu.org>; 'rsaxe@aclu.org' <rsaxe@aclu.org>; 'afuitwala@aclu.org' <afuitwala@aclu.org>; 'asensharma@aclu.org' <asensharma@aclu.org>; 'mmeuti@beneschlaw.com' <mmeuti@beneschlaw.com>; 'dhopkins@beneschlaw.com' <dhopkins@beneschlaw.com>; 'jp johnpodgurski.com' <jp@johnpodgurski.com>; Lynnette Dinkler <Lynnette@dinkler-law.com>
Subject: John / Jane Doe No 1, et al vs. Bethel Local School District BOE, et al

Please see attached.

Thank you.



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